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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,360	03/09/2001	Daniel A. Tealdi	7931P001	8325

7590 09/15/2009  
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EXAMINER
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FELTEN, DANIEL S

ART UNIT	PAPER NUMBER
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3696

MAIL DATE	DELIVERY MODE
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09/15/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/802,360	<b>Applicant(s)</b> TEALDI ET AL.	
	<b>Examiner</b> DANIEL S. FELTEN	<b>Art Unit</b> 3696	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 June 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6 and 36-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 36-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Receipt of the Request for Continued Examination (RCE) filed 6/17/2009 is acknowledged. Claims 1, 3-6, and 40 have been amended. Claim 46 has been added. Thus claims 1-6 and 36-46 are pending in the application and are presented to be examined upon their merits.

### ***Response to Arguments***

2. Applicant's arguments filed 6/17/2009 have been fully considered but they are not persuasive. Levine shows An online centralized financial products exchange system. The invention is a system, method and computer program product that creates a "marketplace" for end-to-end financial products life cycle transactions. More particularly, the invention provides a centralized exchange system for the trading of loans. As was mentioned previously the system includes a plurality of Web servers for receiving and providing loan information from and to subscribers on several Web clients and a database server for searching the pre-set rules to match potential buyers with sellers. The system also includes a database for storing information relating to negotiations (i.e., bidding) for the sale of loans and for storing pre-set rules for pre-registered buyers and sellers. The system further includes a database and server for storing risk/return information that is made available to subscribers for analysis. Once again, it is respectfully submitted that references, in determining obviousness are not read in isolation but for what they fairly teach in combination with prior art as a whole. It is also submitted that references are evaluated by what they suggest, Thus in response to applicant's argument that the new claim language of a calculating and assigning a fulfillment grade based upon a reliability

Art Unit: 3696

score distinguishes over Levine , a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case Levine has a processor capable of the intended use of applicant invention that being managing at least one underwriting criteria *for* a loan product. as previously mentioned.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6 and 36-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Levine (US 6,233,566) in view of In re Venner, 262 F. 2d 91, 120 USPQ 193, 194 (CCPA 1958). The amendments have been considered in the remarks above.

Levine discloses, as in claims ,a method for managing loan products on a server (see Levine Abstract, col. 5, lines 55-60),

Art Unit: 3696

--receiving by a processor a commitment contract (bid), the commitment contract specifying a number of loan products (loan pool) to be fulfilled to satisfy said commitment contract (see col. 23, line 53 to col. 24, line 7).

--managing by said processor one or more underwriting criteria for said loan products, wherein one of said loan products has a corresponding group of underwriting criteria, ***calculating and assigning by said processor a fulfillment grade to a funded loan based on data stored in a database of funded loans for said loan products wherein the fulfillment grade is based on a reliability score (FICO score) for data obtained during a fulfillment process including a verification by the processor of an electronic certificate associated with a borrower of the funded loan.*** as in claims 1 and 40 (see Levine, col. 3, lines 16-28; and col. 20, lines 65 to col. 21, line 3; also see FICO score rules, column 4, lines 11-32).

--wherein the step of managing one or more underwriting criteria comprises the steps of: receiving said underwriting criteria from one or more financial institutions (see Levine, col. 3, lines 16-28); storing said underwriting criteria and providing to a first financial institution a group of underwriting criteria corresponding to one of said loan products (see Levine, col. 3, lines 16-28), *as in claims 2, 36*

--wherein the step of managing one or more underwriting criteria comprises the steps of: assigning a fulfillment grade to a funded loan; and maintaining a record of funded loans for said loan products (see rejections above), *as in claim 3, 3-39*

-- wherein said fulfillment grade is based on a reliability of data obtained during a fulfillment process (see rejection above), *as in claim 4, 40-43*

Art Unit: 3696

--has nonfunctional descriptive material that is not considered patentable (see rejection above), *as in claim 5*

--has nonfunctional descriptive material that is not considered patentable (see rejection above), *as in claim 6,*

*--receiving a request from a first financial institution to transfer to a second financial institution access rights (notification) to said data for one of said one or more loans (see col. 21, line 58 to col. 22, line 37); and*

*--transferring said access rights (allowing access) to said second financial institution (see col. 21, line 58 to col. 22, line 37);*

*--settling one or more loans by providing data for one or more registered financial institutions, as in claim 8,*

---receiving a request from one of said one or more registered financial institutions to review one or more loans (see col. 21, line 58 to col. 22, line 37),

--providing and registered financial institution with a predetermined time in which to reject a sale price of said one loan (see col. 21, line 58 to col. 22, line 37),

--automatically settling said loan at said sale price when said registered financial institution accepts, and alternatively fails to reject said sale price Of said one loan before said predetermined time expires,

Art Unit: 3696

--instructing said registered financial institution to send payment to a settlement financial institution (see col. 21, line 58 to col. 22, line 37), *as in claim 9*,

--wherein said sale price is a settled price between financial institutions (see col. 21, line 58 to col. 22, line 37), *as in claim 10*,

Levine discloses an underwriting processor (Levine column 3, lines 7+) but does not disclose automatically managing by the processor of one or more underwriting criteria and automatically executing the underwriting criteria. However, in In re Venner

The courts held, that broadly providing an automatic or mechanic means to replace a manual activity, as is here, which accomplished the same result is not sufficient to distinguish over the prior art [see MPEP 2144.04]. Thus to automatically managing the processor one or more underwriting criteria and automatically executing actions would be what one of ordinary skill at the time of the invention would expect, having no unexpected results to one of ordinary skill in the art.

Re claim 46: Biometrics is an area conventionally used to access and or verify information. It would have been an obvious variant to use biometrics to provide access to various loan information. Thus OFFICIAL NOTICE is taken of using biometrics to access and verify loan information.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL S. FELTEN whose telephone number is (571)272-6742. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571) 272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Daniel S Felten  
Primary Examiner  
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